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07 JUN 13 AM 11:26
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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LOUD RECORDS LLC; UMG
RECORDINGS, INC.; SONY BMG
MUSIC ENTERTAINMENT; ELEKTRA
ENTERTAINMENT GROUP INC.; and
FONOVISA, INC.

WDB

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

107

309

LOUD RECORDS LLC, a Delaware
corporation; UMG RECORDINGS, INC., a
Delaware corporation; SONY BMG MUSIC
ENTERTAINMENT, a Delaware general
partnership; ELEKTRA ENTERTAINMENT
GROUP INC., a Delaware corporation; and
FONOVISA, INC., a California corporation,,
Plaintiffs,

CASE NO.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

v.

JOHN DOE,

Defendant.

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant
8 may be found in this District and/or a substantial part of the acts of infringement complained of
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

PARTIES

15
16 4. Plaintiff Loud Records LLC is a corporation duly organized and existing under the
17 laws of the State of Delaware, with its principal place of business in the State of New York.

18 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
19 laws of the State of Delaware, with its principal place of business in the State of California.

20 6. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
21 partnership, with its principal place of business in the State of New York.

22 7. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and
23 existing under the laws of the State of Delaware, with its principal place of business in the State of
24 New York.

25 8. Plaintiff Fonovisa, Inc. is a division of Univision Music LLC. Univision Music LLC
26 is a corporation duly organized and existing under the laws of the State of Delaware, with its
27 principal place of business in the State of California.
28

9. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to Defendant by his or her ISP on the date and time of Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant’s true name.

COUNT I

INFRINGEMENT OF COPYRIGHTS

10. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

11. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the “Copyrighted Recordings”). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

12. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

13. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are

1 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
 2 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
 3 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
 4 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
 5 distributed by Defendant.)

6 14. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
 7 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
 8 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
 9 These published copies were widely available, and each of the published copies of the sound
 10 recordings identified in Exhibit A was accessible by Defendant.

11 15. Plaintiffs are informed and believe that the foregoing acts of infringement have been
 12 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

13 16. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
 14 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
 15 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
 16 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

17 17. The conduct of Defendant is causing and, unless enjoined and restrained by this
 18 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
 19 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
 20 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
 21 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
 22 recordings made in violation of Plaintiffs' exclusive rights.

23 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

24 1. For an injunction providing:

25 "Defendant shall be and hereby is enjoined from directly or indirectly
 26 infringing Plaintiffs' rights under federal or state law in the
 27 Copyrighted Recordings and any sound recording, whether now in
 28 existence or later created, that is owned or controlled by Plaintiffs (or
 any parent, subsidiary, or affiliate record label of Plaintiffs)
 ("Plaintiffs' Recordings"), including without limitation by using the
 Internet or any online media distribution system to reproduce (*i.e.*,
 download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload)

1 any of Plaintiffs' Recordings, except pursuant to a lawful license or
2 with the express authority of Plaintiffs. Defendant also shall destroy
3 all copies of Plaintiffs' Recordings that Defendant has downloaded
4 onto any computer hard drive or server without Plaintiffs'
5 authorization and shall destroy all copies of those downloaded
6 recordings transferred onto any physical medium or device in
7 Defendant's possession, custody, or control."

8 2. For statutory damages for each infringement of each Copyrighted Recording
9 pursuant to 17 U.S.C. § 504.

10 3. For Plaintiffs' costs in this action.

11 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

12 5. For such other and further relief as the Court may deem just and proper.

13 Dated: June 13, 2007

HOLME ROBERTS & OWEN LLP

14 By: 

MATTHEW FRANKLIN JAKSA
Attorney for Plaintiffs
LOUD RECORDS LLC; UMG
RECORDINGS, INC.; SONY BMG MUSIC
ENTERTAINMENT; ELEKTRA
ENTERTAINMENT GROUP INC.; and
FONOVISA, INC.

Exhibit A

EXHIBIT A

JOHN DOE

IP Address: 169.233.52.106 2007-03-06 22:23:58 EST

CASE ID# 120851010

P2P Network: GnutellaUS

Total Audio Files: 2323

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Berlin	Metro	Pleasure Victim	43-664
Loud Records LLC	Big Punisher	Still Not a Player	Capital Punishment	260-263
SONY BMG MUSIC ENTERTAINMENT	Babyface	Soon As I Get Home	Tender Lover	106-822
Elektra Entertainment Group Inc.	The Cars	Shake It Up	Shake It Up	32-055
UMG Recordings, Inc.	One Way	Cutie Pie	Who's foolin' who?	34-505
Fonovisa, Inc.	Los Tigres Del Norte	La Mafia Muere	Corridos Prohibidos	105-540